

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ABOUBACAR JALLOH,

Plaintiff,

-against-

THOMAS P. WENDEL,

Defendant.

Index No.: 07 Civ. 4091 (NRB)

ECF CASE

RULE 56.1 STATEMENT OF FACTS

Hon. Judge Naomi R. Buchwald

Pursuant to Local Civil Rule 56.1 of the United States District Court for the Southern District of New York, the Defendant, THOMAS P. WENDEL, submits that there are no genuine issues of fact requiring a trial of the following material facts:

1. This is an action for personal injuries allegedly sustained by Aboubacar Jalloh in a motor vehicle accident on August 7, 2006.
2. Police responding to the accident scene asked Aboubacar Jalloh if he wanted an ambulance called to the scene, and Mr. Jalloh refused an ambulance.
3. There are no reported injuries to Aboubacar Jalloh in the Police Accident Report.
4. Aboubacar Jalloh received medical attention from his treating physician, Dina Nelson, M.D. on November 2, 2006, less than ninety (90) days following the accident, at which time Mr. Jalloh admitted that he is working eight hours a day as a taxi driver, that he is feeling improved with less neck pain and less low back pain.
5. As of February 8, 2008, Aboubacar Jalloh has no physical limitation other than kneeling and walking straight.
6. On April 2, 2008, Aboubacar Jalloh was examined by Robert S. April, M.D.
7. Defendant asserts that Aboubacar Jalloh did not sustain a medically determined "serious injury" pursuant to New York Insurance Law 5102 that is causally related to the subject

motor vehicle accident, and that he is therefore entitled to summary judgment dismissing the complaint and all claims asserted against him in their entirety.

Dated: New York, New York
May 16, 2008

Yours, etc.,

LAW OFFICES OF HARVEY & VANDAMME
Attorneys for Defendant
THOMAS P. WENDEL

By: _____

Mark A. Solomon (2613)

TO: BUDIN, REISMAN, KUPFERBERG & BERNSTEIN, LLP
Attorneys for Plaintiff
ABOUBACAR JALLOH
112 Madison Avenue
New York, New York 10016
(212) 696-5500

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AFFIDAVIT OF SERVICE

[illegible]

ROBERTTA GRAHAM, being duly sworn, deposes and says: that deponent is not a party to this action is over 18 years of age and resides in Bronx, New York.

That on the 16th day of May 2008, deponent served the within **RULE 56.1 STATEMENT OF FACTS** upon:

TO: BUDIN, REISMAN, KUPFERBERG & BERNSTEIN, LLP
Attorneys for Plaintiff
ABOUBACAR JALLOH
112 Madison Avenue
New York, New York 10016
(212) 696-5500

at the addresses designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid, properly addressed wrapper, in the official depository under the exclusive care and custody of the United States Post Office with the State of New York.

Robertta Graham

Sworn to before me this
16th day of May, 2008

Jana E. Rubinich Martinez
Notary Public

LAURAE RUBINICH -
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01RU6118288
QUALIFIED IN NEW YORK COUNTY
CERTIFICATE FILED IN NEW YORK COUNTY
COMMISSION EXPIRES: NOVEMBER 8TH, 20

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LAW OFFICES OF HARVEY & VANDAMME

Attorneys for Defendant
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